

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

DONNA DUGO

Plaintiff(s),

v.

VIRGIN AMERICA, INC. , et al.

Defendant(s).

CASE NO:
8:18-cv-02081-AG-KES

SCHEDULING ORDER
SPECIFYING PROCEDURES

Discovery Fact Cut-Off:
November 4, 2019

Final Pretrial Conference:
January 27, 2020 at 08:30 AM

JURY TRIAL:
February 4, 2020 at 09:00 AM

With this Scheduling Order Specifying Procedures, the Court orders the following concerning the dates and procedures in this case. Counsel are ordered to be completely familiar with the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, and the FAQ's about Judges' Procedures and Schedules posted by these Chambers on the Central District website at www.cacd.uscourts.gov. Most patent cases will be principally controlled by the Standing Patent Rules attached at the location just cited. If there is a first appearance by any party after the date of this Order, Plaintiff counsel shall give

1 notice of this Order to that party.

2 1. Discovery. The Court sets a discovery cutoff on the date stated in the
3 caption of this Order. The following discovery schedule shall apply.

4 1.1 Depositions. All non-expert depositions shall occur on or before
5 the discovery cutoff date. A non-expert deposition which was started on or before
6 the discovery cutoff date may continue beyond the cutoff date, if reasonably
7 necessary for completion.

8 1.2 Other Discovery. All interrogatories, requests for admission,
9 requests for production, or the like, shall be served at least forty-five days before
10 the discovery cutoff date. The Court will not approve stipulations between
11 counsel that permit discovery responses to be served after the cutoff date except
12 in unusual circumstances and upon a showing of good cause.

13 1.3 Discovery Motions. Generally, the Magistrate Judge assigned to
14 this case shall hear all discovery motions. Discovery motions shall be filed and
15 served as soon as possible and never later than 30 days after the discovery cutoff
16 date. The parties are ordered to strictly comply with the requirements of all Local
17 Rules at Local Rule 37 et seq. in preparing and filing Discovery Motions. The
18 Court expects counsel to resolve most discovery problems among themselves in a
19 courteous, reasonable, and professional manner. Frequent resort to the Court for
20 guidance in discovery is generally unnecessary.

21 1.4 Expert Discovery. The discovery cutoff provisions in this
22 Order include expert discovery, except as here provided or otherwise ordered by
23 the Court. Unless the parties otherwise stipulate in writing and obtain the Court's
24 approval, the Court orders the sequence of disclosures as provided by Fed.R.Civ.P.
25 26(a)(2)(D), except that the initial disclosure shall occur at least 120 (not 90) days
26 before trial, and if an expert is identified under Fed. R. Civ. P. 26(a)(2)(D)(ii), any
27 deposition of such expert shall occur as soon as reasonably possible, but may occur
28 after the discovery cutoff date.

2. Final Pretrial Conference. The Court sets a Final Pretrial Conference under Fed.R.Civ.P. 16 on the date stated in the caption of this Order. The parties are ordered to strictly comply with the requirements of all Local Rules at Local Rule 16 et seq. The proposed Final Pretrial Conference Order shall be in the format set forth in Appendix A to the Local Rules, and state the settlement procedure that was followed.

3. Joinder and Amendment Motions. Absent good cause, any motion to join another party or to amend a pleading shall be filed and served within 60 days after the date of this Order and noticed for a hearing occurring within 90 days after the date of this Order.

4. Summary Judgment or Partial Summary Judgment Motions. Such motions shall be noticed for a hearing occurring not less than 25 days before the Final Pretrial Conference, unless otherwise allowed by the Court.

5. Settlement. In every case, if the parties and attorneys are unable to resolve the matter on their own, the Court requires a settlement conference before an independent settlement officer, to be conducted before the Final Pretrial Conference. Counsel may agree on an appropriate procedure, such as a settlement conference with the Court Mediation Panel or a private mediator.

6. Trials. The Court sets a trial date on the date stated in the caption of this Order. Some of this Court's views on voir dire and motions in limine are found at Mixed Chicks LLC v. Sally Beauty Supply LLC, 879 F. Supp. 2d 1093 (2012). The following procedures shall apply.

6.1 In Limine Motions (Jury Trials). Any motion in limine shall be filed and served not later than ten court days before the Final Pretrial Conference, and any opposition shall be filed and served five court days before the Final Pretrial Conference. Motions in limine are most proper when directed to prevent even the improper mention of a highly sensitive issue, or to save expense by determining whether a witness will be allowed to testify, or to allow a thorough

1 review of a significant and difficult evidentiary issue. Most motions in limine are
2 best left for rulings in the context of the trial. See Mixed Chicks, 879 F. Supp. 2d
3 at 1094–1095.

4 6.2 Voir Dire Questions (Jury Trials). The Court will question jurors
5 concerning standard topics. Any special questions or topics requested to be put to
6 prospective jurors by the Court on voir dire shall be filed and served at least seven
7 days before trial. “The principal purpose of voir dire is to identify bias. It is not to
8 indoctrinate, inculcate, influence, insinuate, inform, or ingratiate.” Mixed Chicks,
9 879 F. Supp. 2d at 1093–1094 (internal citations omitted).

10 6.3 Jury Instructions (Jury Trials). The Court prefers to use
11 instructions from the Manual of Model Jury Instructions for the Ninth Circuit,
12 following all the Local Rules at Local Rule 51 *et seq.* The Court usually gives the
13 following preliminary instructions to the jury before opening statement: 1.1B, 1.3,
14 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.18, and 1.19. At least seven days
15 before trial, counsel shall file with the Court the following:

16 6.3.1 A joint set of jury instructions on which there is
17 agreement. (Plaintiff’s counsel has the burden of
18 preparing the joint set of jury instructions.)

19 6.3.2 Each party’s proposed jury instructions which are
20 objected to by any other party, accompanied by points
21 and authorities in support of those instructions.

22 6.3.3 Each party’s points and authorities supporting their
23 objections to another party’s proposed jury
24 instructions.

25 6.4 Special Verdict in Jury Trials. If any special forms of verdict are
26 requested, they shall be prepared, filed, and served under Local Rules 49–1 and
27 49–2.

28 6.5 Exhibits. Unless an electronic alternative is approved by the

1 Court, counsel shall prepare an original set and a copy set of trial exhibits in 3–ring
2 binders, each tabbed down the right side with the exhibit number, prefaced by an
3 index of each exhibit, following Local Rule 26–3 in numbering exhibits. If
4 voluminous exhibits will be delivered to the Court’s loading dock, the delivery
5 should be coordinated before trial with the Courtroom Deputy Clerk at
6 AG_chambers@cacd.uscourts.gov.

7 6.6 Submission at Trial. Counsel shall submit the following to the
8 Courtroom Deputy Clerk on the first day of trial:

9 6.6.1 The original exhibit binder set with the Court’s exhibit
10 tags attached and filled out showing the case number,
11 case name, and exhibit number. (Exhibit tags must be
12 attached so as not to cover exhibit text.)

13 6.6.2 The copy exhibit binder set for use by the Judge.

14 6.6.3 Three copies of exhibit lists, showing which exhibits
15 may be received into evidence without objection.

16 6.6.4 Three copies of witness lists with estimates of the total
17 time on the stand for each witness.

18 6.6.5 A transcript or copy of any deposition or other
19 discovery response to be read to the jury, following
20 Local Rule 16–2.7.

21 6.6.6 (Jury trials) A very short description of the case
22 approved by all parties to be read to the jury at the
23 beginning of the trial. As an alternative, the Court may
24 allow the parties to briefly describe the case to the jury.

25 6.7 Trial Times. Trial times generally are 9:00 a.m. to 12:00 p.m.
26 and 1:30 p.m. to 4:30 p.m. Tuesday through Thursday, and 8:00 a.m. to 1:30 p.m.
27 on Friday.

28 6.8 Witnesses. If counsel runs out of witnesses, the Court may

1 deem that counsel has rested. Counsel must keep opposing counsel informed
2 about upcoming witnesses, always informing opposing counsel of the witness for
3 the next court day before 5:00 p.m. of the previous court day. Only one attorney
4 per party shall examine and defend a witness.

5 6.9 Admission of Exhibits. When counsel thinks an exhibit is
6 admissible and should be admitted, counsel should move for its admission.

7 6.10 Objections. Objections should be brief, stating only,
8 “Objection” followed by the specific legal ground such as “hearsay” or “403.”

9 6.11 Decorum. Trials will be conducted in a dignified manner,
10 following the traditional rules of trial decorum. Show respect for the trial process
11 by being on time. Do not address witnesses over age 14 by their first names.
12 Most examination and argument should be done at the lectern. The Court
13 recognizes that at times it is necessary to enter the well in this courtroom.

14 6.12 Other Possible Trial Procedures. The Court is open to
15 creative trial procedures, such as imposing time limits, allowing short statements
16 introducing each witness’ testimony before examination, allowing questions
17 from the jury, and giving the jury a full set of instructions before the presentation
18 of evidence. The Court reminds parties that trial estimates affect juries. The
19 Court strongly encourages the parties to give young associate lawyers the
20 chance to examine witnesses and fully participate in trial (and throughout the
21 litigation!).

22 **IT IS SO ORDERED.**

23
24 DATED: February 4, 2019



25 Andrew J. Guilford
26 United States District Judge

27 Courtroom Deputy Clerk:
28 Melissa H. Kunig
melissa_kunig@cacd.uscourts.gov